



# Memorandum

**TO:** TRANSPORTATION AND  
ENVIRONMENT COMMITTEE

**FROM:** Councilmember  
Sam Liccardo

**SUBJECT:** SEE BELOW

**DATE:** August 16, 2010

**APPROVE** 

7-16-10

**SUBJECT: "HOT SPOTS" CREEK TEAM AND STORM WATER PERMIT  
IMPLEMENTATION**

**RECOMMENDATION:**

Approve the staff recommendations, and also return to the Transportation and Environment Committee to discuss the following issues:

1. Direct City staff to explore with the Santa Clara Valley Water District identify whether any viable funding sources—including Water District's "Clean Safe Creeks" bond money and the City's storm sewer service revenues—might exist for a pilot partnership with the Palo Alto Downtown Streets Team (or similar nonprofit) to create opportunities for ongoing creek cleanup by previously homeless men and women.
2. Direct the City Attorney to provide a confidential supplemental memorandum to Council further refining the analysis of its April 2, 2010 memorandum, specifically responding to the following questions, focusing on the potential use of storm sewer fees to fund a pilot "Hot Spots Creeks Team" concept:
  - a. The City's NPDES storm water permit contains a "Trash Load Reduction" provision that requires annual clean up of 32 creek Trash Hot Spots, and establishes phased goals to reduce trash loads from the storm sewer system by 40% in 2014, increasing thereafter. Since the storm sewer fee was created solely to address the NPDES permit requirement of the federal Clean Water Act, shouldn't this "Trash Load Reduction" requirement necessarily place creek cleanups within the realm of the relevant "municipal separate storm sewer system" ("MS4") for the purposes of a Proposition 218 analysis? Why or why not?
  - b. If we are able to identify and generally track the sources of trash loads in the creeks to the dozens of homeless encampments along the Coyote Creek or Guadalupe River, does that increase or decrease the likelihood that the clean-up of trash at those encampments will fall within the ambit of services that can be funded by storm sewer fees?
  - c. Is there anything within the federal Clean Water Act, enabling regulations, or relevant case law that explicitly includes or excludes creeks and rivers in/from the scope of MS4 subject to the NPDES permit?

- d. Has the State Water Resources Control Board issued any opinions or findings relating to the appropriate scope of MS4 that would assist us in determining whether storm water fees appropriately could be appropriately used for creek cleanups?
3. Nothing about this recommendation shall be deemed to waive attorney-client privilege of the City Attorney's current or subsequent advice to Council on this matter.

### **BACKGROUND**

The Palo Alto Downtown Streets Team is a nonprofit organization that has won national acclaim for its innovative means of employing previously homeless residents in productive endeavors to clean and beautify the streetscape of downtown Palo Alto. Founded in 2005, the DST employs homeless men and women to work under janitorial contracts in exchange for housing and food vouchers. As members succeed in basic tasks, they take on increasing responsibilities, with a goal of eventually transitioning to full-time employment and housing. The group has had considerable success in helping homeless residents get back on their feet.

I have reached out to the Downtown Streets Team to see if a similar concept could work within San José's creeks system. We discussed back-of-the envelope calculations for managing a pilot project, and the costs would roughly amount to a modest \$100,000 per year for ongoing creek maintenance and cleanup. The enormous potential benefits of such a program for our homeless, our safety, and our environment appear worthy of closer examination.